

HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO. 429 of 2005

Dated 13th September, 2005

Between:

The Primary Agricultural Cooperative Society, Malkapuram, Tullur Mandal,
Guntur District, represented by its Person-in-charge.

Appellant.

And:

1. Sri K.Sivarama Prasad, son of Sulbbaia, resident of Gudivada village, Tenali
Mandal, Gulntur District and others.

Respondents.

JUDGMENT : (Per the Honourable Smt. Justice T.Meena Kumari)

This writ appeal is filed by appellant aggrieved by the order in W.P. No: 25569 of 2000, under which the learned single Judge allowed the same by setting aside the order impugned therein.

The appellant is the 2nd respondent and the respondents herein are the writ petitioner and respondents 1 and 3 respectively in the writ petition. The parties will be referred to as arrayed in the writ petition for the sake of convenience.

The writ petitioner filed the present writ petition seeking to declare the action of respondents 1 and 2 in dismissing the writ petitioner from service as illegal, unconstitutional and arbitrary and to direct the respondents to reinstate him into

service with back wages and all other benefits. The learned single Judge having observed that as there is no enquiry in respect of the allegations of the basis made for dismissal of the writ petitioner, it is too late in the day to say that the Management can take recourse the said proceeding without proper enquiry, allowed the writ petition by setting aside the order impugned. Aggrieved by the same, the present writ appeal has been preferred by the 2nd respondent.

Heard the learned counsel, perused the order impugned and the entire material available on record.

The case of the writ petitioner in a nutshell is that he worked as Paid Secretary for some time with good track of record and due to ill-health, he applied for leave and thereafter, he reported for duty on 11-5-1999, but he was not permitted to join the duty and ultimately, he was served with the order impugned therein terminating his services.

It is submitted by the learned counsel for the appellant that the writ petition by an employee of a Co operative Society, is not maintainable and that the petitioner has misappropriated huge amounts of the society and therefore, his services were terminated and the procedure as per the bye laws of the society was followed before dismissing the petitioner. Hence, it cannot be said that the dismissal of the petitioner is against the procedure and the order of the learned single Judge, is liable to be set aside.

On the other hand, it is contended by the learned counsel for the writ petitioner that without any enquiry conducted against the writ petitioner, his services were terminated and therefore, the said action is against the principles of natural justice and as such, the order of the learned single Judge, is justified and it does not warrant any interference by this Court.

A perusal of the record goes to show that no enquiry has been conducted by the respondent before terminating the petitioner. In such a situation, the learned single Judge is justified in setting aside the order impugned therein while giving liberty to the respondents to initiate fresh proceedings and take appropriate action in accordance with law after affording proper notice and opportunity and conducting enquiry as contemplated under law. If that being the case, We feel that there is no illegality or irregularity in the order impugned herein. Hence, We see no merits in

this appeal and the same is liable to be dismissed.

In the result, this writ appeal is dismissed. No costs.

Justice T.Meena Kumari

Date : 13th September, 2005.

Justice P. Lakshmana Reddy

Dvs/Gurc.

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(Judgment delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 13th September, 2005